

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CRANSTON, RITT

RHODE ISLAND TRAFFIC TRIBUNAL

STATE OF RHODE ISLAND

v.

RAHIM CALDWELL

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**C.A. No. T18-0015
16511000733**

DECISION

PER CURIAM: Before this Panel on October 31, 2018—Administrative Magistrate Abbate (Chair), Associate Judge Almeida, and Chief Magistrate DiSandro, sitting—is Rahim Caldwell’s (Appellant) appeal from a decision of Magistrate Erika L. Kruse Weller (Hearing Magistrate) of the Rhode Island Traffic Tribunal, sustaining the charged violation of G.L. 1956 § 31-21-4(a)(1), “Parking or stopping prohibited—sidewalk.” The Appellant appeared before this Panel *pro se*. Jurisdiction is pursuant to § 31-41.1-8.

I

Facts and Travel

On March 13, 2018, Rhode Island College Campus Police issued Appellant a citation for parking or stopping where prohibited. *See* Summons No. 16511000733. The court entered a “not guilty” plea to the charged violation on behalf of Appellant at his first appearance on April 24, 2018, and the matter was scheduled for trial on June 26, 2018.¹ (Tr. at 1, July 23, 2018.) However, Appellant failed to appear for trial on the scheduled date. *Id.* As such, Magistrate William T. Noonan (Trial Magistrate) of the Rhode Island Traffic Tribunal entered a default

¹ Appellant would not enter a plea at his first appearance, but did remark that “this is going to be a long trial.” (Tr. at 2, April 24, 2018.) Pursuant to Rule 7(a), “[i]f a defendant refuses to plead . . . , the court shall enter a plea of not guilty and the case will be placed on the trial calendar.”

judgment against Appellant, sustaining the charged violation. (Tr. at 1, June 26, 2018.) Appellant subsequently filed a motion to vacate the default judgment on July 12, 2018, pursuant to Rhode Island Traffic Tribunal Rule of Procedure 20.

At the hearing on Appellant’s motion to vacate judgment on July 23, 2018, the Appellant stated that he did not appear for trial because he inadvertently wrote the trial date down as June 27, 2018, instead of June 26, 2018, at his first appearance. (Tr. at 2, July 23, 2018.) Appellant explained that he was in Providence County Superior Court filing a civil action on the trial date. *Id.* Appellant further claimed that “these charges are false—these are a figment of Rhode Island College’s imaginations. . . . 6/27 is the date I had down because I was extorted by some of your officials here—some of your employees, I was extorted out of my Constitutional rights. That’s some of the reasons why I missed the date.” *Id.* The Hearing Magistrate responded, “There was nothing extraordinary or unusual about getting the date right . . . I’m not here to hear the entire case . . . you would have had that opportunity at trial.” *Id.* at 4.

The Hearing Magistrate determined that Appellant’s writing down the wrong trial date was “an error in case management or some sort of neglect, which is within [Appellant’s] control, . . . [and] doesn’t meet the standard for a motion to vacate.” *Id.* at 3. As such, the Hearing Magistrate denied Appellant’s motion to vacate. Thereafter, Appellant filed a timely appeal of the Hearing Magistrate’s decision. Forthwith is this Panel’s decision.

II

Standard of Review

Pursuant to G.L. 1956 § 31-41.1-8, the Appeals Panel of the Rhode Island Traffic Tribunal possesses appellate jurisdiction to review an order of a judge or magistrate of the Rhode Island Traffic Tribunal. Section 31-41.1-8(f) provides in pertinent part:

“The appeals panel shall not substitute its judgment for that of the judge or magistrate as to the weight of the evidence on questions of fact. The appeals panel may affirm the decision of the judge or magistrate, or it may remand the case for further proceedings or reverse or modify the decision if the substantial rights of the appellant have been prejudicial because the judge’s findings, inferences, conclusions or decisions are:

- “(1) In violation of constitutional or statutory provisions;
- “(2) In excess of the statutory authority of the judge or magistrate;
- “(3) Made upon unlawful procedure;
- “(4) Affected by other error of law;
- “(5) Clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or
- “(6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.”

In reviewing a hearing judge or magistrate’s decision pursuant to § 31-41.1-8, this Panel “lacks the authority to assess witness credibility or to substitute its judgment for that of the hearing judge [or magistrate] concerning the weight of the evidence on questions of fact.” *Link v. State*, 633 A.2d 1345, 1348 (R.I. 1993) (citing *Liberty Mut. Ins. Co. v. Janes*, 586 A.2d 536, 537 (R.I. 1991)). “The review of the Appeals Panel is confined to a reading of the record to determine whether the judge’s [or magistrate’s] decision is supported by legally competent evidence or is affected by an error of law.” *Id.* (citing *Envtl. Sci. Corp. v. Durfee*, 621 A.2d 200, 208 (R.I. 1993)). “In circumstances in which the Appeals Panel determines that the decision is clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record or is affected by error of law, it may remand, reverse, or modify the decision.” *Id.* Otherwise, it must affirm the hearing judge’s (or magistrate’s) conclusions on appeal. *See Janes*, 586 A.2d at 537.

III

Analysis

On appeal, Appellant contends that the Hearing Magistrate's decision was "[i]n violation of constitutional or statutory provisions;" "[m]ade upon unlawful procedure;" and "[a]ffected by other error of law[.]" Specifically, Appellant asserts that (1) the Hearing Magistrate applied the excusable neglect standard rather than the inadvertence standard, and (2) Rhode Island Traffic Tribunal staff was the cause of Appellant's inadvertence.² See Appellant's Notice of Appeal.

Pursuant to Rule 20(a), "[t]he court may, upon motion or on its own initiative, relieve a party or a party's legal representative from a judgment or order for . . . [m]istake, inadvertence, surprise, or excusable neglect." However, "it is well established in this jurisdiction that unexplained neglect, standing alone and without more . . . will not automatically excuse noncompliance with orderly procedural requirements." *Santos v. D. Laikos, Inc.*, 139 A.3d 394, 398 (R.I. 2016) (quoting *Iddings v. McBurney*, 657 A.2d 550, 553 (R.I. 1995)) (internal quotation marks omitted). The Rhode Island Supreme Court has defined "excusable neglect" as

"[a] failure to take the proper steps at the proper time, not in consequence of the party's own carelessness, inattention, or willful disregard of the process of the court, but in consequence of some unexpected or unavoidable hindrance or accident, or reliance on the care and vigilance of his counsel or on promises made by the adverse party," *Pleasant Management, LLC v. Carrasco*, 960 A.2d 216, 224-25 (R.I. 2008) (quoting *Jacksonbay Builders, Inc. v. Azarmi*, 869 A.2d 580, 584 (R.I. 2005)).

In order to establish excusable neglect, "the party must generally show that the circumstances that caused the party to miss a deadline were out of that party or counsel's

² Appellant also proffers various other arguments on appeal regarding the denial of his due process rights with respect to the summons and the unauthorized practice of law by police officers. However, these claims are not currently before this Panel as Appellant only appeals the denial of his Motion to Vacate. The place for these claims to be heard would have been at trial, but Appellant failed to appear.

control.” *Santos*, 139 A.3d at 399 (quoting *Boronian v. Richer*, 983 A.2d 834, 840 (R.I. 2009)). Unexplained neglect and case mismanagement, on its own, does not suffice. *See Jacksonbay Builders, Inc.*, 869 A.2d at 584-85 (*pro se* litigant’s lack of knowledge of the arbitration award rejection deadline did not amount to excusable neglect); *Coutu v. Porter*, 744 A.2d 405, 406 (R.I. 1999) (counsel’s explanation that he missed filing deadline insufficient to warrant excusable neglect).

The determination of whether excusable neglect exists “is at bottom an equitable one, taking account of all relevant circumstances surrounding the party’s omission.” *Pleasant Management, LLC*, 960 A.2d at 225. Factors to be considered include the reason for the error, its potential impact on judicial proceedings, whether it was within the reasonable control of the movant, and whether the movant acted in good faith. *Boronian*, 983 A.2d at 839 (citing *Conetta v. National Hair Care Centers, Inc.*, 183 F.R.D. 403, 406 (D.R.I. 1998)). Thus, “[e]xcusable neglect that would qualify for relief from judgment is generally that course of conduct that a reasonably prudent person would have taken under similar circumstances.” *Id.* (quoting *Astors’ Beechwood v. People Coal Co.*, 659 A.2d 1109, 1115 (R.I. 1995)).

The record in the instant matter does not contain sufficient evidence to merit a finding of “excusable neglect.”³ Here, the Appellant missed his trial because he wrote down the incorrect trial date at his first appearance. Appellant argues that this situation was beyond his control because Rhode Island Traffic Tribunal staff “made physical threats, which caused [him] to write the wrong date down.” (Tr. at 2, July 23, 2018). However, Appellant’s mistake in recording the

³ Appellant also argues that his writing down the wrong trial date constituted “inadvertence,” so the Hearing Magistrate should have analyzed the instant matter under the inadvertence standard rather than the “excusable neglect” standard. However, “excusable neglect” and “inadvertence” are analyzed under the same standard—“the inadvertence and excusable neglect standard”—often referred to simply as “excusable neglect.” *Sec. 55:5 Setting aside default or default judgment, Kent, Simpson, Flanders, Wollin, Rhode Island Civil Procedure* § 55:5

date is still due to his “own carelessness [or] inattention,” and thus squarely within Appellant’s control. *See Pleasant Management, LLC*, 960 A.2d 2at 224-25. Appellant’s calendaring error was not due to reliance on promises made by the adverse party, nor was it the consequence of some unexpected accident or event. *See id.* (excusable neglect when attorney violated anti-contact rule by telling opposing party to “forget about court,” causing default judgment against opposing party); *State v. Dominguez*, 679 A.2d 873, 874-75 (R.I. 1996) (finding excusable neglect when defendant missed motion to dismiss filing deadline because his counsel was not appointed until after deadline expired).

Even if there were some simultaneous event that distracted Appellant from hearing or writing down the correct trial date, Appellant nonetheless had notice of the correct trial date. Indeed, the Rhode Island Traffic Tribunal subsequently mailed to Appellant’s address the “Notice of Your Next Court Date” form after his first appearance, which clearly listed the correct trial date. Moreover, it was well within Appellant’s control to confirm the correct trial date either by asking the Hearing Magistrate to repeat the date prior to leaving the courtroom or checking the online public database. *See Boranian*, 384 A.2d at 839-840 (error in computing number of days to file rejection was entirely under defendant’s control). Therefore, Appellant’s calendaring error is insufficient to warrant a finding of excusable neglect. Accordingly, this Panel finds that the Hearing Magistrate did not err in denying Appellant’s Motion to Vacate.

IV
Conclusion

This Panel has reviewed the entire record before it. Having done so, the members of this Panel are satisfied that the Hearing Magistrate’s decision was not “[i]n violation of constitutional or statutory provisions;” “[m]ade upon unlawful procedure;” or “[a]ffected by other error of law[.]” Sec. 31-41.1-8(f)(1), (3)-(4). The substantial rights of the Appellant have not been prejudiced. Accordingly, Appellant’s appeal is denied, and the charged violation is sustained.

ENTERED:

Administrative Magistrate Joseph A. Abbate (Chair)

Associate Judge Lillian M. Almeida

Chief Magistrate Domenic A. DiSandro, III

DATE: _____